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Global Forest Management:
What has been achieved, what comes next?

– Critical choices for structural, legal and financial options –

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Acronyms

<i>AHWG</i>	Ad-Hoc Working Group
<i>CBD</i>	(United Nations) Convention on Biological Diversity
<i>CBO</i>	Community-based Organization
<i>CILSS</i>	(Inter-State Permanent) Committee on Drought Control
<i>CLI</i>	County Led Initiative
<i>COFO</i>	FAO Committee on Forestry
<i>COP</i>	Conference of the Parties
<i>CPF</i>	Collaborative Partnership on Forest
<i>CRIC</i>	Committee for the Review of the Implementation of the Convention
<i>CSD</i>	Commission on Sustainable Development
<i>DESA</i>	Department of Economic and Social Affairs
<i>ECOSOC</i>	(United Nations) Economic and Social Council
<i>ENB</i>	Earth Negotiations Bulletin
<i>FAO</i>	United Nations Food and Agriculture Organization
<i>GA</i>	(United Nations) General Assembly
<i>GEF</i>	Global Environment Facility
<i>GMEF</i>	Global Ministerial Environment Forum
<i>IAF</i>	International Arrangement on Forests
<i>ICC</i>	International Criminal Court
<i>IFF</i>	Intergovernmental Forum on Forests
<i>IGO</i>	Intergovernmental Organization/Agency
<i>IMF</i>	International Monetary Fund
<i>INCD</i>	Intergovernmental Negotiation Committee on a Desertification Convention
<i>IPF</i>	Intergovernmental Panel on Forests
<i>IUCN</i>	International Union for the Conservation of Nature
<i>LBI</i>	Legally-binding Instrument
<i>MDGs</i>	Millennium Development Goals
<i>MEA</i>	Multilateral Environmental Agreement
<i>NAP</i>	National Action Plan
<i>NFP</i>	National Forest Plan
<i>ODA</i>	Official Development Aid
<i>OPs</i>	Operational Programmes (GEF)
<i>PACD</i>	Plan of Action to Combat Desertification
<i>PfAs</i>	Proposals for Action
<i>PRSP</i>	Poverty Reduction Strategy Paper
<i>RCU</i>	Regional Cooperation Unit
<i>UNCCD</i>	United Nations Convention to Combat Desertification
<i>UNCOD</i>	United Nations Conference on Desertification
<i>UNCED</i>	United Nations Conference on Environment and Development
<i>UNDP</i>	United Nations Development Programme
<i>UNEP</i>	United Nations Environment Programme
<i>UNESCO</i>	United Nations Educational and Scientific Organization

<i>UNFF</i>	United Nations Forum on Forests
<i>UNFCCC</i>	United Nations Framework Convention on Climate Change
<i>Unicef</i>	United Nations Children's Fund
<i>WMO</i>	World Meteorological Organization
<i>WSSD</i>	World Summit on Sustainable Development
<i>WTO</i>	World Trade Organization

1. Problem focus and mission objectives

The international forest regime inaugurated at United Nations Conference on Environment and Development (UNCED) so far has not led to tangible and sustainable results. United Nations Forum on Forests (UNFF) has proved to be too weak an instrument to address the global process of forest degradation, featuring lukewarm resolutions without a binding nature. There is broad consensus about the shortcomings of a complex and differentiated, but also highly fragmented architecture of institutional bodies and political processes that are broadly considered as ineffective and also inefficient, in any case certainly insufficient. The global forest crisis continues unabated despite more than ten years of global forest policy dialogue in the Intergovernmental Panel on Forests (IPF, 1995-1997), followed by the Intergovernmental Forum on Forests (IFF, 1997-2000) and finally the United Nations Forum on Forests (UNFF, 2000-ongoing). Moreover, forest policy implementation and resource mobilization to support implementation in developing countries and in countries with economies in transition remain insufficient. Thus, a little more than a decade after the initiation of the IPF/IFF/UNFF process the international community now faces the challenge of deciding upon the future of the so fragmented and fragile global forest regime. There is an urgent need to collectively consider reformed strategic objectives and institutional as well as financial arrangements to accomplish the objectives of global sustainable forest management. Establishing a new legally binding, compliance yielding successor regime is one of the options debated these days. This one as well as other alternatives should yet best be considered in close negotiation with non-state actors that at the end of the day have the potential to ensure wide spread social acceptance of any new legal and/or political framework.

UNFF 5, in May 2005, was mandated to survey existing efforts under the international forest regime, review the issue of establishing a new legal instrument, and deliberate upon a future financial mechanism for sustainable forest management. In this context, and in the forefront of UNFF 5, a number of possible options and suggestions have been discussed by experts and delegates alike, covering a wide range of possible structural, legal and financial instruments. As for any envisaged new forest instrument, the international community is in the comparatively fortunate position to be able to take stock of experiences made with other existing environmental agreements, and to take into consideration failures and best practices arising from these processes.

In designing a future International Agreement on Forests, it is of course important to take into account the contemporary political realities at the global level. Many governments' political attention is nowadays foremostly directed to societal concerns such as economic, social and human development, poverty reduction, health, water and sanitation, food security, national security and statehood protection as well as human security. In a number of countries, reduced political status, reduced budgets as well as reduced Official Development Aid (ODA) have hampered progress in the forest management field. To ensure significant political support for any future forest objectives, it is thus prerequisite to explicitly include the crucial issue of enhanced and sustainable forest management into the societal agenda of developing countries and actual and possible donors.

Some background and discussion papers elaborated in the forefront of the Mexico Country Led Initiative (CLI) in support of UNFF 5, Guadalajara, 25-28 January 2005) tended to propose four strategic forest objectives, i.e. (a) enhance conservation of global forest resources to ensure long-term benefits for people that depend on them; (b) secure high-level political support to mobilize financial and technical resources to meet the current and future demand for forest products; (c) reduce deforestation and forest degradation and restore deforested and degraded forestland to a productive state; (d) establish partnerships with constituencies external to forests to proof contributions of forests to the societal agenda of states¹. Notwithstanding the evident importance of these objectives, such exclusive approaches may not lead to an effectively reshaped and impact-driven new policy for global forest management. More holistic requirements seem to be needed: the global targets of nature conservation, sustainable resource management, production and trade have to be addressed in a balanced and integrated manner – harmonizing needs and objectives of recipients and donors, producers and consumers alike. It's the intention of this paper to contribute to such a debate.

2. Background, genesis and justification of a reformed forest approach

At the occasion of the United Nations Conference on Environment and Development (UNCED), commonly called The Earth Summit, in Rio de Janeiro in 1992, the international community adopted, inter alia, the non-legally binding Forest Principles and Chapter 11 of "Agenda 21" on combating forest degradation. Within the preparatory phase of UNCED, debates and research on the global forest issue were highly evolved, and awareness raising had been undertaken mostly on the aspects of deforestation induced climate change and loss of biological diversity. Expectations had therefore run high. Especially the aspect of preservation of tropical forests was one of the top agenda items, in public and at NGO level. So, the low profile outcome of UNCED as far as forests are concerned was even less than a half-baked solution, and subsequently carried the issue into other juridical frameworks such as the UN Framework Convention on Climate Change (UNFCCC) and the Kyoto Protocol (through the issue of carbon sequestration) as well as the UN Convention on Biological Diversity (CBD) and the Cartagena Protocol on Biosafety (yielding the use of forest resources), and the United Nations Convention to Combat Desertification (UNCCD).

Already in 1991, the 12th World Forestry Congress had concluded its work stating that any multilateral agreement on timber trade, forest conservation or else will have to fully respect the principle of state sovereignty. This notion followed repeated discord between developed countries and developing countries about the issues of free access to national forest resources in tropical countries versus the goal of conservation of biological diversity. This unproductive tradition of tension has been carried over the years and thus influenced the spirit of Rio in a

¹ See, for instance, Maini, Jagmohan S.: Future International Arrangement on Forests. Background Discussion Paper. Ottawa 2004.

negative way, which so far has hampered progress towards establishment of a mutually agreeable forest convention. This is still to be taken into consideration today - the North South dimension of the global forest debate has to be resolved when embarking into any new attempt now. Developing countries have reiterated their sovereignty over tropical forest resources with no concession to free use and access. At the same time, financial contribution by donors to those countries gradually diminished. Developing countries had always made their accession to a multilateral legal agreement depending from enhanced financial flow on committed basis or through a central world forest fund.

At Rio, the said discord influenced the negotiations. The 'Rio Forest Declaration' unveils the lack of consensus between state parties. Still, it provides comprehensive ideas about a desirable global consensus on management, conservation and ecologically sound exploitation of forest resources. During the UNCED phase, the IPF/IFF/UNFF process was launched - within the context of the mentioned North-South discord. Since then, reference has reiteratedly been made to the main Rio output documents regarding forests, the Forest Principles, the Rio Declaration on Forests, and Chapter 11 of "Agenda 21". Based upon the conceptual matrix contained in these papers, the IPF was put under the aegis of the United Nations Commission on Sustainable Development (CSD) in 1995. Suggestions elaborated by the IPF (the so-called Proposals for Action) were considered and adopted by a special session of the UN General Assembly (GA) in 1997, when the deliberations of the IPF were transformed into the framework of the IFF, established to implement the proposals established by the IPF.

The IFF was mostly busy with measuring progress made in implementing these IPF resolutions by state governments – surveyed by voluntary yearly national reports, and also mandated to elaborate on possible future arrangements for global forest management, e.g. a legally-binding instrument (LBI). At the conclusion of its term, the IFF decided to envisage within a period of five years the formal adoption of a multilateral global legal framework. Already then, forest policy was not only treated within the contexts of conservation or trade etc., but also by addressing economic, social and ecological concerns alike.

Hence the IPF/IFF negotiation process differs from other environmental and sustainable development negotiation processes since no legally binding instrument has been agreed to so far by its bodies. The report of IFF 4 was adopted in 2000, and the Commission on Sustainable Development called upon the Economic and Social Council (ECOSOC) to decide on the establishment of an International Arrangement on Forests (IAF), consisting of an intergovernmental body named United Nations Forum on Forests (UNFF), and the so-called Collaborative Partnership on Forests (CPF) to sustain and catalyze UNFF's work, comprising 14 members, i.e., inter alia, the World Bank, the Global Environment Facility (GEF), the United Nations Environment Programme (UNEP), the International Union for the Conservation of Nature (IUCN) and several inter-governmental agencies (IGOs), as well as regional and global research centers. In October 2000, the UNFF was established as successor of the IFF and as a subsidiary body of ECOSOC, open for all UN member states with full and equal participation, including voting rights.

Three ad hoc expert groups were established to support its work in the field of (a) monitoring, assessment and reporting; (b) finance and technological transfer; and (c) parameters for a legally binding instrument. The pertaining ECOSOC resolution 2000/35 stated: „Within five years, on the basis of the assessment referred to in paragraph 2(e) above ... consider with a view to recommending to the Economic and Social Council and through it to the General Assembly the parameters of a mandate for developing a legal framework on all types of forests. This process could develop the financial provisions to implement any future agreed legal framework...”

Inter-governmental negotiations about the establishment of a legal framework have since 2000 mostly taken place within the context of UNFF. In the following UNFF rounds, delegates had to decide on the formal placement of UNFF within the UN system and on the issue of participation. In January 2004, a number of Member States of the EU have agreed to yield, as for the negotiations towards the future of the International Arrangement on Forests at UNFF 5 in May 2005, a new legally binding instrument for protection and sustainable management of global forest resources. Three of the primordial functional goals towards this undertaking have been identified as (a) conservation and protection, (b) restoration and sustainable use, and (c) added value to meeting the Millennium Development Goals (MDG's). The MDG Major Event 2005 will thus – besides many other issues - become an opportunity for the necessary new trend towards balanced forest management.

State of the play

In preparation for the Guadalajara Country Led Initiative of January 2005, the incoming EU Presidency, Luxembourg, has called EU member states to come up with precise and detailed proposals for substance building. The following issue areas were identified as pertinent to negotiations for a future International Arrangement on Forests and/or legal instrument for forests:

- adequate mechanisms for finance including long term reliability
- adequate cooperation mechanisms for technology transfer
- clear rules of procedure and compliance mechanisms
- adequate monitoring and reporting mechanisms
- adequate mechanisms for information dissemination such as through a clearing house mechanism
- trade as well as access and benefit-sharing
- means to link up with other regional and thematic processes and instruments
- institutional mechanisms for a global forest policy forum

As for the Country Led Initiative (CLI) session itself, reference was given foremostly towards the outcomes of the Meeting of the Ad Hoc Expert Group on Consideration with a view to Recommending the Parameters of a Mandate for Developing a Legal Framework for All Types

of Forests (AHEG PARAM), which was convened from 7 to 10 September 2004 in New York². The CLI focused thus on institutional modalities as well as possible financial mechanisms for a reformed IAF. There was basic consensus on the need for an enhanced forest regime, following clear overarching objectives and mechanisms for compliance and monitoring. Yet, no consensus could be reached about the key question as to what nature a reformed IAF should be of, i.e. legally-binding or non-legally-binding. Countries such as Brazil or the US are strongly against a LBI, and even within the EU, a common position on this issue has not been reached. While identification of goals and strategies has proved to be undertaken and conceptualized already by the Rio outputs as well as the IPF proposals (PfAs), ECOSOC res. 2000/35 and other sources, institutional and financial issues remained unsolved during this CLI.³

At the 23rd Governing Council of the United Nations Environment Programme (UNEP) and the Global Ministerial Environment Forum (GMEF) in Nairobi in February 2005, reference was made to the constructive and pro-active role that UNEP has been playing within the framework of the CPF. UNEP furthermore offered legal and strategic support to UNFF 5 and presented a list of desiderata as regards the nature and structure of a future instrument for all types of forests.⁴ From this point, it seems that at ministerial level consensus on UNFF reform and/or a new instrument will easier be achievable than at working level.

The last global meeting on forestal issues before UNFF 5 took place from 14 to 19 March 2005 at the UN Food and Agriculture Organization (FAO) Headquarters in Rome: the FAO Ministerial Meeting on Forests and the 17th session of the FAO Committee on Forestry (COFO 17). To the disappointment of some observers, no substantive reference was made to the formal and financial aspects of a future IAF. However, the role of FAO within the global forest regime was highlighted as was the role of sustainable forest management for meeting the MDGs.⁵ At the 13th Session of the UN Commission on Sustainable Development (CSD 13), in April 2005 in New York, the global forest regime and the future of the IAF did not play a major role.

The fifth session of the United Nations Forum on Forests (UNFF 5) took place from 16 to 27 May 2005 at UN Headquarters in New York.⁶ The major goal set beforehand was to assess the effectiveness of the existing IAF, and, if needs be, to modify and enhance it. Observers expected the conference to decide about the replacement of the status quo arrangement by a legally-binding instrument (LBI), possibly for all types of forests. But UNFF 5 resulted in a disastrous situation. No agreement could be reached, and the deliberations were postponed towards a sixth UNFF session scheduled for February 2006 in New York. At the end of the meeting, the following goals were decided upon by delegations without a truly binding nature: (a) protected and sustainably managed forest zones to be significantly enlarged globally; (b) ODA for sustainable forest management to be raised; (c) reversion of deforestation,

² See UN ECOSOC Document E/CN.18/2005/2.

³ Reference is made to the CLI Report as submitted to the United Nations (The Guadalajara Report, Co-Chairs' Report, January 2005) and the Earth Negotiation Bulletin (ENB) Vol. 101, No. 01, January 2005.

⁴ UN Document UNEP/GC23/INF/10.

⁵ See ENB Vol. 13, No. 122, March 2005.

⁶ <http://www.iisd.ca/download/pdf/enb13133e.pdf>

afforestation measures at global level; and (d) enlargement and fostering of forest based economic, social and environmental benefits for the sake of meeting the MDGs.⁷

UNFF 5 was marked by diverging interests of major actors. While basically all delegations assessed the existing IAF as insufficient, the question of significant strengthening of the IAF and/or establishment of a new LBI led to maximum divergence between parties. The EU, Canada and Switzerland, for instance, opted for such an LBI while in particular the USA and Brazil were firmly against it. As a plan B, when realizing that an LBI was totally out of reach, the LBI supporters put forward the idea of global goals for sustainable forest management in line with precise quantitative benchmarks for monitoring and assessment.⁸ But even this relatively soft proposal could not pass against the blocking coalition of USA, Brazil, the G77 and China, and India who opted for the establishment of “strategic goals” without a quantitative or binding nature. The G77 by the way suggested to delay the decision on an LBI until 2015, and found support from the US delegation, while the EU expressed its desire to entrust the UNGA with the establishment of an inter-governmental drafting group for a world forest convention.

3. Learning from the WSSD experience

Much has been written on the Rio Earth Summit, analysis and evaluation has been provided throughout.⁹ In June 1997, at the 19th Special Session of the UN General Assembly called *Rio +5*, thorough stocktaking of the progress made so far in the implementation of UNCED's results took place. Of course, this process was identified as insufficient. As a result, the UN Commission on Sustainable Development (CSD) was entrusted with an enhanced mandate, its programmatic priorities were reset for the following five years: climate, protection of forests, enforcement of environmental institutions. But the real Rio stocktaking took place at another occasion, decided upon by the General Assembly's 55th Session in 2000: the *Rio +10* conference, called *World Summit on Sustainable Development* (WSSD), taking place from 26 August to 4 September 2002 in Johannesburg, South Africa. Preparation of the WSSD was in the hands of the Commission on Sustainable Development (CSD). Four PrepCom meetings were held in 2002. Part of this preparatory process was the 2000 UN Millennium Summit bringing about the Millennium Declaration whose development goals were reinforced by the WSSD.

The WSSD, the largest conference ever to date, provided an opportunity for a comprehensive review of the achievements on sustainable development since Rio. At the same time, it was expected to provide a new impetus for a breakthrough on urgent matters. Prior to the

⁷ http://un.org/esa/forests/pdf/session_documents/unff5/unff5decisions.pdf

⁸ <http://www.ictsd.org/biores/05-06-10/inbrief.htm>

⁹ One of the many articles on the Rio process, which I would like to recommend, is Swiderska, Krystyna: Implementing the Rio Conventions: Implications for the South. In: *Iied Opinion*, 2002.

conference in Johannesburg, however, it was already clear that the record of the Rio decade left a lot to be desired in terms of effectiveness and achievements of the agreements and action plans mentioned above. This resulted in both raising expectations and doubts in equal measure. Would the world summit finally bring about the turning point in international environmental policy that many had demanded for so long? Would it be capable of providing the decisive impetus to cooperation on development issues?

When it comes to assessing the record of the results from Johannesburg, the skeptics are having a field day. In their eyes, the final document points to progress on a number of issues, but the qualifications added to nearly every conclusion leave them skeptical. World fish reserves *ought to* be protected by 2015. The most dangerous toxins to the environment are to be banned, but violators have *no sanctions* to fear. Subsidies for fossil fuels should be reduced, though *no strict time frame* was agreed on. There are also a number of impressive sounding declarations of intent: free and democratic access to fresh water was established as a basic right, energy production from non-fossil fuels is to be fostered, and the necessity of debt relief for the poorest countries was recognized. But, here too, the prospect of a breakthrough is questionable given the lack of concrete action and clear mechanisms for imposing sanctions. The final documents are full of lax time frames and goals, open questions regarding financing and a lack of ideas of how to implement the plethora of good intentions at the institutional and organizational level.

The German ministerial representatives Jürgen Trittin (Minister for the Environment) and Heidemarie Wiecek-Zeul (Minister for Economic Cooperation and Development) interpreted the record more positively. Above all, they noted that measures to ensure safe water and drinking water for the world's poor, one of the EU's biggest goals, were achieved. According to them, another success story was the agreement by the US - despite a rejection of concrete time frames and quotas - to the basic goal of putting an end to species extinction and to reducing the dangerous effects of chemicals. Moreover, they described regulations for corporate liability, fisheries and a review of modes of consumption and production in industrialized states, as well as the mention of 'global public goods' such as air and the oceans, as steps in the right direction. The German representatives viewed energy as a central issue. Providing access to the world's two billion people living without electricity with an environmentally sound form of this energy was, along with the previously mentioned issue of access to water resources, the other of the two major goals of the summit. According to the two ministers, energy and water are the issues that most clearly embody the notion of sustainability and are therefore the most important. The theory goes that securing basic provisions for electricity and water helps fight poverty, improves health, increases economic opportunities and protects the environment, provided renewable energy sources are used. UNEP Executive Director Klaus Töpfer, who had helped shape the 1992 Rio summit when he was German Minister for the Environment, drew his own conclusions as head of the UN Environment Programme. Important progress was made at Johannesburg, he says. He was initially concerned that the summit would, in the end, reveal itself as merely cosmetic. In fact, however, Töpfer let it be known that he considers the Plan of Implementation of the WSSD - the most important final document - insufficient.

3.1. Lessons Learnt

Without doubt, there is no 'Rio' momentum for a global collaborative effort by *all* UN member states together to solve common problems at this stage, however necessary and desirable that would be. Furthermore, we cannot and should not expect the organs of multilateral cooperation, the UN institutions, to provide results that are not brought about by the member states working in concert. Inefficiency and chronic under-financing of the existing instruments simply adds to the difficulties. This could be the hour of a practical middle way, along the lines pursued by the German government in Johannesburg in its and the EU's offensive on energy policy outside the official summit activities. Initiatives of individual states or groups of states and their allies of convenience in so called 'coalitions of the willing' seem to be a pragmatic way out at the moment of the dilemma posed by the current gridlock in the implementation of important environmental and development measures. It could soon lead to first stage victories, for example in the area of climate protection, particularly after Russia's ratification of the Kyoto Protocol, and overcome the extensive inertia. German Chancellor Gerhard Schröder succeeded in Johannesburg in getting the EU and some 90 other states to sign a declaration calling for the promotion and establishment of renewable energy outside the framework of the summit going well beyond the conclusions of the final document.

Of course, the global forest agenda has well been taken care of through the WSSD documents, especially the Plan of Implementation – substance and knowledge is not the problem. On the other hand, the overall issue of reforming the architectonic of global environmental governance, including the question of IAF, has not deeply been dealt with. However, world summits organized by the United Nations will still need to take place given that they alone provide a suitable platform for global communication and interaction, not the least of which with civil society. The critical question remains whether the goal of getting *all* participating countries to sign final documents, along with the corresponding compromises in formulations that entails, should be abandoned. If at future summits the international community were to free itself from the pressure for consensus, and instead used such summits as global forums for forming coalitions of the willing around decisive issues, the interests of those most affected by environmental destruction and under-development might well be better served.¹⁰ For the forest scheme, this means that creativity and initiative should not be focused on the UNFF sessions alone and per se. Countries willing and in favor of a strong future regime should work on strong coalitions of political allies to foster their common position in the near negotiations.

3.2. Perspectives for Global Environmental Governance

As early as in 2000, the German government put emphasis on the necessity to both strengthen and enlarge the international structures of environmental governance, which

¹⁰ See also Rechkemmer, Andreas: Globale Umwelt- und Entwicklungspolitik in der Krise? Nach dem Gipfel von Johannesburg. SWP-Aktuell 44 (Oktober), Berlin 2002.

ought to be further developed.¹¹ Since then, an impressive number of reform proposals have been submitted to the global audience, for instance, the creation of a so-called Earth Council, a body of moral credibility, comprising internationally renowned eminent personalities, or the introduction of environmental taxation for the use of global public goods such as air, sea or outer space, including increased burden sharing responsibilities for the private sector. Another suggestion that has constantly been reiterated by the German and the French government is the empowerment of the United Nations Environment Programme (UNEP), supposed to be transformed into a specialized agency or even a world environmental organization.¹²

Focusing on the UN system, global environmental governance has meanwhile become a widely-stretched, dense and diversified institutional framework consisting of a multitude of agencies, structures and bodies - not mentioning the less formalized ongoing negotiation processes and conference series. The main organs of the United Nations, the General Assembly (GA), the Economic and Social Council (ECOSOC) as well as the Commission on Sustainable Development (CSD) are dealing with environmental issues, just like the Department of Economic and Social Affairs (DESA) of the Secretariat. Moreover, UNEP, UNDP (United Nations Development Programme), the Regional Commissions, and a number of funds, programmes and specialized agencies such as IFAD (International Fund for Agriculture Development), FAO (UN Food and Agriculture Organization), Unicef (UN Children's Fund), UNESCO (UN Educational and Scientific Organization), the WMO (World Meteorological Organization) and others, work in that field. Finally, we should mention the convention secretariats such as UNFCCC, CBD and UNCCD, the UN Forum on Forests Secretariat and other administrative bodies entrusted with managing international regimes of environmental concern. Last but not least, the World Bank has constantly enlarged its environmental efforts.

This orderly disorder of agencies, bodies and regimes working in the field of environment respective sustainable development, will require particular attention in the forthcoming years. The institutional picture of global environmental governance reveals a number of organizational pathologies, i.e. an ineffective and certainly also inefficient multiplication of efforts due to a multitude of actors and agents involved. Besides the above mentioned approach, to upgrade UNEP towards a specialized organization, a number of other proposals for reform have been submitted, amongst which are the so-called mainstreaming approach – *greening the IMF/World Bank and the WTO* – or the foundation of a completely new world organization for sustainable development, which would render UNEP and UNDP, but maybe even the existing conventions and regimes, obsolete.¹³

In their article *Weltpolitik zwischen Staatenanarchie und Global Governance*¹⁴, Dirk Messner, Jeanette Schade and Christoph Weller claim that in the aftermath of 11 September 2001,

¹¹ See 'Gemeinsame Presseerklärung BMU/ BMBF' as of 20.12.2000, online at <www.bmu.de/presse/2000>.

¹² On questions of institutional reform, reference is made to Prittwitz, Volker von (ed.): *Institutionelle Arrangements in der Umweltpolitik – Zukunftsfähigkeit durch innovative Verfahrenskombinationen?* Opladen, 2000.

¹³ More on this subject can be found in Simonis, Udo E.: *Architektur einer Weltorganisation für Umwelt und Entwicklung*/ In: Nuscheler, Franz (ed.): *Entwicklung und Frieden im 21. Jahrhundert*. Bonn, 2000.

¹⁴ Messner, Dirk/ Schade, Jeanette/ Weller, Christoph: *Weltpolitik zwischen Staatenanarchie und Global Governance*/ In: *Stiftung Entwicklung und Frieden* (ed.): *Globale Trends 2004/2005*. Frankfurt (Main), 2003.

security issues have once more dominated the global agenda, bringing forth a restoration of power politics based on national interests, particularly promoted and followed by the United States, and even including a doctrine of preemptive military strikes. According to the authors, this tendency not only challenges international law, but also deeply undermines all efforts undertaken and already established towards the principles of collective action and global governance.

This movement of consequent, if not systematic, withdrawal from multilateral cooperation, comprises strategic policy fields such as arms control regimes – named be the so-called diversification of nuclear arsenals to tackle the problem of international terrorism, the cancellation of the bilateral US-Russian 'ABM' treaty, the treaty on nuclear test stop, and the verification regime for biological weapons -, the Kyoto protocol, the International Criminal Court (ICC) and bilateral trade treaties to bypass and undermine the regulatory provisions of the World Trade Organization (WTO). Messner, Schade and Weller recall Jochen Hippler's term 'selective multilateralism', sometimes also called 'multilateralism à la carte', which could serve as an adequate description of the US' and other important states' policy towards global issues:

*"There was hope in the past decade toward the emergence of civil society actors, new avenues for multilateral cooperation and international law. However, after September 11, the world seems to be gliding back into the same old patterns of politics of power, interest and conflict."*¹⁵

Empirically speaking, we are living in a period of growing interdependence between unilateralism, global governance, and globalization.¹⁶ But despite all given hysteria about the threat of new empires or aggressive unilateralism, we should understand that the USA and their allies had to face their limits at Johannesburg – not to speak about Iraq here. At the end of the day, the most important result of the World Summit on Sustainable Development (WSSD) was: the crucial Rio results are maintained. And even more decisions were taken against the resistance of the so-called unilateralists:

- equality of environmental agreements with WTO standards
- corporate accountability principle accepted by the UN
- the biodiversity loss rate to be reduced until 2010

*"The strict obstinacy of the U.S. and other governments towards global environmental management has triggered certain change in international politics: since consistent multilateralism is lacking, willing states are forming new alliances of political forerunners. This phenomenon creates a new form of 'multilateralism at different speed'."*¹⁷

¹⁵ Op. cit., p. 238. Translation by A.R.

¹⁶ See also op. cit., p. 242-244.

¹⁷ Op. cit., p. 247. Translation by A.R.

Despite all contradictions, empirical studies admit advanced institutionalization of global environmental governance, even as of today. Some 900 intergovernmental agreements have been decided upon. And no one would seriously neglect the growing role of private actors, scientific networks, and NGOs – seconded by new economic instruments such as certificates trading. It seems that an adequate label for the present phase in international relations would be *synchronicity of realities*. We might as well feel tempted to speak of parallel worlds. While some empirical findings suggest that unilateralism and coalitions of the willing are a paradigm for contemporary international order, others speak openly about an age of emerging empires. On the other hand, global governance, particularly in the field of environment or sustainable development, is definitely *practised* by a multitude of actors world-wide. While nation-states will remain dominant actors for some time¹⁸, be it *as* unilateralists, multilateralists or partners, governance will in any case, in a further globalizing world, comprise new avenues and strategies for joint implementation, so-called type II outcomes or informal agreements, be they hierarchical, i.e. between states only, or horizontal, i.e. in the form of networks and partnerships.¹⁹

The added value of these Johannesburg related findings for the UNFF 5 deliberations lies in the strategic conceptualization of international cooperation in the field of environment as multi-segmented. The German approach should therefore not envisage solely classic multilateral dimensions, i.e. a legally-binding or non-legally-binding instrument as the only key towards a more effective forest regime. In any case, whatever structures will be yielded at inter-governmental level under UN frameworks, forerunners have to be prepared to second their deliberations by coalition-driven and informal approaches, i.e. through the means of partnership building.

4. Findings from the UNCCD process

4.1. Desertification: Historical milestones and terms of reference

Desertification became an issue on the international agenda in the 1970s only. After a long and devastating drought period in Sub-Saharan Africa, more precisely in the Sahel, during the late 1960s and early 1970s, the Inter-State Permanent Committee on Drought Control in the Sahel (CILSS) was established by nine Sahelian countries in September 1973 in Ouagadougou, Burkina Faso, as a first inter-governmental institutional step. CILSS sought, among others, to enhance awareness among governments world-wide. Subsequently, in August and September 1977, the UN organized the so-called United Nations Conference on Desertification (UNCOD) in Nairobi, Kenya. There, desertification was addressed as a global

¹⁸ On the nation-state's relevance for environmental governance see Jänicke, Martin: Die Rolle des Nationalstaats in der globalen Umweltpolitik/ In: Aus Politik und Zeitgeschichte B27 (30. Juni), 2003.

¹⁹ Refer to Hamm, Brigitte (ed.): Public-Private Partnership und der Global Compact der Vereinten Nationen. Duisburg, 2002.

problem for the first time. UNCOD resulted in the adoption of the first international agreement on the issue, the Plan of Action to Combat Desertification (PACD). Among its provisions was a complete stopping of degradation processes of formerly fertile soils until the turn of the century, and, if possible, the reversion of desertified areas into fertile land.

The Sahel drought period of the 1970s is mostly connotated with famine and humanitarian disaster. However, it is the corresponding ecological disaster that is, strictly speaking, identified with desertification. This term does not refer to the spreading of natural, existing deserts. It rather points to the conversion of previously 'normal' land into desertified areas. The concept 'desertification' reverts back to the works of the French researcher Aubreville, who, in 1949, introduced it for the process of loss of vegetation cover. Although quite some research on the ecology and economy of dryland zones had been undertaken by UNESCO, WMO and FAO in the 1960s, the term desertification was first applied politically during the Sahel crisis in the 70s, and mentioned as a *terminus technicus* in 1974 as part of the UN General Assembly's resolution 29/337, initiated by Burkina Faso, which called for the convocation of UNCOD.²⁰ The General Assembly mandated UNEP to collect existing knowledge and consult with other UN bodies, so as to come up with proposals for solutions to be tabled at UNCOD. During the preparatory phase for the conference, thorough scientific research on the phenomenon of desertification was undertaken. Distinguished from the natural pulsations of the Sahara and other deserts, and from some popular ideas, profound findings on the causes and effects of drought, land degradation and desertification were collected, and UNCOD was expected to, on the basis of these findings, elaborate solutions.

UNCOD comprised 94 states and 65 NGOs. The expected outcome was the elaboration and adoption of the PACD. Extensive background documentation was provided to this end: listings of existing scientific findings, mostly on the impact of climate, as well as on ecological and social change and technology, elaborated by an inter-disciplinary group of international experts. Furthermore, a collection of case studies and a world map on desertification were provided. UNEP tabled some feasibility studies to explore possible intervention means and measures of a transnational nature. UNCOD took place upon high scientific input and great contributions from of the epistemic community: it seemed that by far sufficient knowledge was available for successful political deliberations. UNCOD was a case of consensual knowledge, and no major political dispute emerged during the conference.²¹

Desertification was officially defined as loss of biological productivity with socio-economic consequences. The international community's goal was set as to preserve food supply of growing populations and their economic development. In 1977, more than a third of the world's surface was recognized as desertic or semi-arid, while some 9,115,000 sq kilometers were called as desertified due to man-made causes. Some 30 million sq kilometers, or 19

²⁰ See Ehlers, Maximilian: *Die Rolle von Wissen in der internationalen Politik*. Magisterarbeit. München, 1996, p. 27, Odingo, Richard S.: *The definition of desertification: Its programmatic consequences for UNEP and the international community/ In: Desertification Control Bulletin Vol. 18, 1990*, and Spooner, Brian: *Desertification: The Historical Significance/ In: Huss-Ashmore, Rebecca/ Katz, Salomon H. (eds.): African Food Systems in Crisis*. New York, 1989.

²¹ See Ehlers, Maximilian, p. 30-31.

percent of the surface, were said to be at risk - distributed among two thirds of the world's countries. For the first time ever, desertification was thus acknowledged as a global problem.

The Plan of Action to Combat Desertification (PACD) defined as its goal:

„The immediate goal of the Plan of Action to Combat Desertification is to prevent and to arrest the advance of desertification and, where possible, to reclaim desertified land for productivity use. The ultimate objective is to sustain and promote, within ecological limits, the productivity of arid, semi-arid, sub-humid and other areas vulnerable to desertification in order to improve the quality of life of their inhabitants.“²²

Immediate measures were decided upon to be implemented until 1984, while the overall goals were set to be achieved until 2000. All these measures were not legally binding, and no clear consensus on regulatory means was defined. The treaty's 28 recommendations, mostly calling on national measures, included issues such as knowledge bases, capacity building, and national action plans. Little emphasis was laid on the need for international cooperation - only financial and technical support was promised to be provided to affected countries. To this end, a special account at the UN was created, and reference to a desired new international economic order was given in Article 100. Yet no additional means or resources for development cooperation were created. The PACD was a purely declarative paper not only without any legally binding status, but also without benchmarks, indicators or monitoring and evaluation scenarios. It proved to be least effective and finally failed. UNEP, which was mandated to implement the PACD, provided detailed reports on the progress made since UNCOD in 1984 and 1992 respectively, unveiling that desertification and land degradation had worsened rapidly by then – made impressively evident through GPS monitoring systems. Moreover, few countries had ever shown deeper interest to commit themselves to support the implementation process of the PACD.²³ By the time the convocation of UNCED was decided upon, the PACD was already commonly regarded as an insufficient instrument and subsequently de facto abandoned. Yet, the issue of desertification, and with it related phenomena such as drought and various forms of land degradation, were still on the top of a number of national governments' agendas, particularly on those of African and other developing countries. During UNCED's PrepComs, the desertification portfolio was supposed to be dedicated a chapter in Agenda 21, while negotiations among G 77 countries started aiming at making it even a convention issue. So, UNCCD has its origins in UNCED and, more specifically, in Chapter 12 of Agenda 21 – as the result of tough bargaining efforts of the group of African countries and the G 77.

The Earth Summit, in Chapter 12 of Agenda 21, called on the UN General Assembly to set up an inter-governmental committee to prepare for a legally binding instrument that addresses the problem of desertification, which was confirmed by the 47th Session of the General Assembly in December 1992 in New York through resolution 47/188. The drafting process of UNCCD was thus part and parcel of UNCED's official follow up process, and was charged to an

²² PACD, Art. 10.

²³ See Ehlers, Maximilian, p. 4.

inter-governmental negotiation committee (INCD). The INCD convened ten times altogether. At session one (INCD-1, 24 May to 3 June 1993, Nairobi) the delegates exchanged existing information and background knowledge on major problems to be tackled by the convention. They also discussed the principal goals of UNCCD, highlighting the particular emphasis on Africa for the first time. The following three sessions were dedicated to the elaboration of a draft convention and regional implementation annexes. An important issue was the partnership between North and South and South and South. At INCD-5, taking place from 6 to 17 June 1994 in Paris, the final draft of UNCCD including four regional implementation annexes passed. Five further INCD sessions were organized to prepare for the first session of the Conference of the Parties (COP).²⁴

The United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, particularly in Africa (UNCCD) was adopted and opened for signature in October 1994. The signature ceremony took place from 14 to 15 October 1994 in Paris, and 85 states signed UNCCD at this occasion, and became the first Parties to the Convention. June 17 became the world day to combat desertification. The UN General Assembly welcomed this new convention and its signatory process through resolution 49/234, adopted on 23 December 1994. UNCCD entered into force on 26 December 1996, 90 days after the 50th instrument of ratification was deposited. For a party acceding the Convention after this date the Convention enters into force 90 days after this party has deposited its instrument of ratification, accession or acceptance. To date, it has been signed and ratified by more than 190 states. Developing countries as well as developed countries, including such countries not affected by drought or desertification are Parties to the Convention. This mode follows the principle of international partnership.

In October 1997, the first session of the Conference of the Parties (COP 1) was organized in Rome, Italy. Rules governing the COP and its subsidiary bodies were established, the functions of the Global Mechanism, the financial mechanism of UNCCD, was set forth, and the permanent secretariat of the Convention (UNCCD Secretariat) was designated. COP 2, taking place in December 1998 in Senegal, Dakar, concentrated on medium-term strategies of the secretariat. A declaration on the convocation of the first round table of Members of Parliaments on desertification was decided upon. In January 1999, the Permanent Secretariat of the UNCCD was established in Bonn, Germany – after having served as an interim secretariat based in Geneva. COP 3, which convened in November 1999 in Recife, Brazil, brought forth a first review of policies, operational modalities and activities of the Global Mechanism as finance broking institution. Consultations took place on the "Recife Initiative" to enhance the implementation of the obligations of the Parties to UNCCD. In December 2000, COP 4 in Bonn, Germany established a fifth implementation annex for Central and Eastern Europe (Annex V), and adopted the "Recife Initiative". An inter-governmental ad-hoc working group (AHWG) started an in-depth review of country reports on the implementation of the Convention in March and April 2001 at an intersessional meeting in Bonn, Germany. A comprehensive report, including conclusions and recommendations on further steps in the

²⁴ See Op. cit., p. 71, and <www.unccd.int>.

implementation of the Convention, was adopted and submitted to COP 5 in October 2001 in Geneva, Switzerland. At COP 5, a Committee for the Review of the Implementation of the Convention (CRIC) was established as a second subsidiary body of the COP. Furthermore, Parties agreed on the reform of the Committee on Science and Technology (CST), the scientific and first subsidiary body of the COP, and a Group of Experts was established. In August and September 2002, at the World Summit on Sustainable Development (WSSD) taking place in Johannesburg, South Africa, governments called on the Global Environment Facility (GEF) to become a financial mechanism of the UNCCD. Subsequently, in October 2002 the Second Assembly of the GEF convened in Beijing, China, and adopted a decision to designate land degradation as its fifth focal area, and to establish the GEF as a financial mechanism of the UNCCD.

In November 2002, the first meeting of the Group of Experts to the UNCCD took place in Hamburg, Germany. Also in November 2002, the first session of the newly established CRIC (CRIC 1) was organized in Rome, Italy. Innovative solutions to combat desertification were identified and shared by country Parties and inter-governmental bodies, based on update reports on UNCCD implementation received by countries. A report was adopted and submitted to COP 6, which was organized in September 2003 in Havana, Cuba. On the first session of the Committee to Review the Implementation of the Convention (CRIC), the Earth Negotiations Bulletin (ENB) writes:

„The first meeting of the CRIC was held at the Food and Agriculture Organization (FAO) headquarters in Rome, Italy, from 11-22 November 2002. The CRIC was established in accordance with decision 1/COP.5 to regularly review the implementation of the CCD, draw conclusions, and propose concrete recommendations to the COP on further implementation steps. CRIC-1 considered presentations from the five CCD regions, addressing the seven thematic issues under review: participatory processes involving civil society, NGOs and community-based organizations; legislative and institutional frameworks or arrangements; linkages and synergies with other environmental conventions and, as appropriate, with national development strategies; measures for the rehabilitation of degraded land, drought and desertification monitoring and assessment; early warning systems for mitigating the effects of drought; access by affected country Parties, particularly affected developing country Parties, to appropriate technology, knowledge and know-how; and resource mobilization and coordination, both domestic and international, including conclusions of partnership agreements. The meeting also considered information on financial mechanisms in support of the CCD's implementation, advice provided by the CST and the GM, and the Secretariat's report on actions aimed at strengthening the relationships with other relevant conventions and organizations.“²⁵

On the sixth session of the Conference of Parties (COP), held in September 2003 in Havana, Cuba, the following valuable assessment has been provided by the ENB:

²⁵ Op. cit.

„The sixth Conference of the Parties (COP-6) marked the transition from awareness raising to implementation... There certainly was scope to scale a critical threshold by finally taking important and overdue steps. These included designating the GEF as a financial mechanism for the CCD and identifying CRIC criteria for the COP-7 review. Two factors served as an additional impetus to making significant progress: the presence of Cuban President Fidel Castro, known for his ability to do “much with very little,” and the first anniversary of the WSSD, which identified combating desertification as a tool for eradicating poverty... Looking at the two weeks of negotiations, several items merit particular attention. Clearly, the most controversial issue was the programme and budget, and little headway was made on the regional coordination units (RCUs). In contrast, the designation of the GEF as the CCD’s financial mechanism was the biggest success of COP-6. Progress was also made with regard to synergies with other conventions. With concern being voiced in the corridors, over the lack of transparency, the Secretariat’s role must also be examined. Finally, it is important to gauge the impact of the high-level segment on the future operation of the CCD, and the role of emerging regional groups. Agreement on the GEF’s new role was clearly a high point of COP-6, marking the beginning of a new era for the CCD. Although the GEF will make available US\$500 million over three years to land degradation and desertification programmes, much less than for its other four focal areas (climate change, biodiversity, international waters and ozone depletion), this resource will nonetheless make a long-awaited difference for developing country Parties in implementing the CCD... Several agenda items were of direct relevance to speeding up the transition to the implementation phase, including synergies between conventions, the CST’s Group of Experts, benchmarks and indicators, the CRIC’s new programme of work, and RCUs. With the linkages between climate change, desertification and biodiversity, Parties to the three Rio conventions have been working on developing synergies and drawing on experiences gained in each other’s processes, while trying to avoid duplication of work... Discussions on the Group of Experts, benchmarks and indicators, and on the new CRIC programme of work illustrated the negotiators’ awareness of inadequacies in institution-building, and their willingness to address them. On the Group of Experts, progress was made towards prioritizing its work to maximize its scientific impact. The CST also made headway in developing benchmarks and indicators, which will lead to translating the abundant existing scientific information into policy-relevant advice... Apart from the high-level segment, COP-6 will most likely be remembered for finalizing the decision that opened the GEF to funding desertification programmes. This achievement, along with bringing order to the CCD structures can be expected to bring the CCD closer to breaching the implementation gap. On the other hand, the CCD Secretariat faces new challenges, such as a down-sized budget and the need to build credibility. The new focus on implementation, rather than on awareness raising, places a great responsibility on the Secretariat... Despite the COPs’ repeated decisions, less than a third of the Parties have submitted their NAPs. If the CCD does not address the new challenges it faces, in particular the reality of reduced financial contributions and wavering political

*commitment from some donor Parties, the future of the only developing countries' Convention may be bleak indeed.*²⁶

4.2. UNCCD as a tool for sustainable development

Sustainable development is about improving the quality of life for all of the Earth's citizens without increasing the use of natural resources and sinks beyond the capacity of the environment to supply them indefinitely. It underlies an understanding that action has consequences and that humanity must find innovative ways to change institutional structures and influence individual behavior. It is about taking action, changing policy and practice at all levels, from the individual to the general or collective. Sustainable development is not a new idea. Many cultures over the course of human history have recognized the need for harmony between the environment, society and economy. What is new is an articulation of these ideas in the context of a global industrial and information society. The Brundtland definition also implies a very important shift from an idea of sustainability, as primarily ecological, to a framework that also emphasizes the economic and social context of development.

In this regard, since UNCED, more responsibilities have been placed on states and civil society to protect local, national, subregional, regional and global environment, especially those shared by whole communities such as climate change, loss of biodiversity, land degradation, desertification and deforestation. In other words, there was conceptualization of a need for more effective implementation of conventions on environment and development, through an integration with domestic law and policy. A number of examples clearly point out the human concerns and need for meaningful incentives for communities and individuals to achieve sustainable development, including in the framework of UNCCD, sustainable land use. It is commonly recognized that global environmental threats such as climate change and global warming are mainly produced in developed countries, and are thus part of the epiphenomena of globalization, but have significant and often disastrous impact on developing countries. Loss of biodiversity, deforestation and desertification are among the most prominent ones, since rainfall patterns change significantly in arid, semi-arid and dry subhumid areas. But this is not yet the end of the story. Desertification itself is a driving force for further downstream problems of severe magnitude, such as marginalization of rural areas, economic disaster and poverty, migration, urbanization, and social conflict, just to name some. There is, as has been mentioned above, a clear link between sustainable development, and more particular, environmental issues, and globalization. It has thus been important to study and understand the multiple effects of economic globalization in relation with global development, environment and questions of participation of people. The term 'sustainable development' itself implies an explicit normative call to balance the effects of globalization in a way that environmental and socio-economic disasters in developing countries are addressed, managed and sustainably mitigated and prevented by the global community. The UNCCD aims to play a

²⁶ Op. cit.

significant role in this context. It further aims to contribute concepts and activities which are expected to revitalize local economies and communities, and ensure long term ecological stability. The items were foreseen by the INCD deliberations.

The UNCCD logic of intervention thus contains typical elements of sustainable development principles: enhanced productivity of the agricultural sector instead of one-sided industrialization, resolution of unjust land tenure structures, the role of education of rural people and appropriate technology- traditional as well as modern-, selected moderate measures of subvention and protection, enhanced participation of grassroot people.²⁷ Desertification has its greatest impact in Africa because two thirds of the continent are deserts or drylands, which are concentrated in the Sahelian region, the Horn of Africa and the Kalahari in the south. Not only is the region afflicted by frequent and severe droughts, but many African countries are land-locked, have widespread poverty and depend heavily on natural resources for subsistence. Their difficult socio-economic conditions, insufficient institutional and legal frameworks, incomplete infrastructure and weak scientific, technical, and educational capacities have bred the conditions for deforestation and overexploitation of land that lead to land degradation, loss of fertile soil and desertification as a result. When people live in poverty they have little choice but to overexploit the land. There is a high correlation between poverty and environmental degradation as a result of poor people's dependence on exploitation of the environment for survival.²⁸

This is true not only of the drylands in the Sahel and Kalahari, but of the greener countries such as Ghana, Cameroon, Congo, the Democratic Republic of Congo and Uganda, which are as threatened by desertification. Overgrazing and deforestation, which exacerbate land degradation and soil erosion, plague these countries. In Uganda, for instance, where 90% of the population lives in rural areas and directly depends on land for cultivation and grazing, forestland shrank from 45% of the country's surface area to 21% between 1890 and 2000. As a result of overgrazing in its drylands known as the "cattle corridor," soil compaction, erosion and the emergence of low-value grass species and vegetation have subdued the land's productive capacity, leading to desertification. Inappropriate farming systems further aggravate the process. The majority of farmers are not knowledgeable or exposed to improved farming methods such as crop rotation. In Ghana, where the population density has reached 77 persons per km², 70% of the firewood and charcoal needed for domestic purposes comes from the savannah zones, destroying 20,000 ha of woodland per annum. About 40% of Ghana's land mass is subject to desertification, which further exacerbates poverty. Many African countries are afflicted by a vicious cycle between poverty and desertification.²⁹ It was of utmost importance at UNCED to understand what are the linkages, underlying forces, causes and effects between globalization and natural disasters, or, in other

²⁷ See Senghaas, Dieter: Wider den entwicklungstheoretischen Gedächtnischwund/ In: Thiel, Reinhold E. (ed.): Neue Ansätze zur Entwicklungstheorie. 2. Auflage. Bonn, 2001.

²⁸ According to UNDP's Zambia Human Development Report, 1998.

²⁹ Information taken from national reports submitted to the UNCCD Secretariat at the Secretariat's website <www.unccd.int>. An interesting country study on desertification and CCD implementation, highlighting its difficulties, in Namibia is Böhm, Nicole: Desertifikation: Zu den Schwierigkeiten der Implementation der UN-Konvention. Fallstudie Namibia. WZB Studie. Berlin, 2002. More in Toulmin, Camilla: La Convention sur la lutte contre la désertification. Un code de bonnes pratiques/ In: Développement et coopération (mars-avril), 2001.

words, to find an answer to the question: how can sustainable development (and in this context: combating desertification and mitigating the effects of drought) be obtained in the age of globalization? And how can the structures, trends and effects of a globalizing world be utilized to serve the needs of those affected by environmental and socio-economic disaster such as desertification? The answer identified in Rio lies in the principle of collective action.

4.3. The bottom-up approach as UNCCD's threshold

The Convention defines desertification as „land degradation in arid, semi-arid and dry sub-humid areas resulting from various factors, including climatic variations and human activities“. It states that combating desertification includes activities aimed at the prevention and/or reduction of land degradation, the rehabilitation of partly degraded land, and the reclamation of desertified land. Drought in terms of UNCCD means the „naturally occurring phenomenon that exists when precipitation has been significantly below normal recorded levels, causing serious hydrological imbalances that adversely affect land resource production systems“. ³⁰ In particular, Article 2, UNCCD, states:

„The objective of this Convention is to combat desertification and mitigate the effects of drought in countries experiencing serious drought and/or desertification, particularly in Africa, through effective action at all levels, supported by international cooperation and partnership arrangements, in the framework of an integrated approach which is consistent with Agenda 21, with a view to contributing to the achievement of sustainable development in affected areas. Achieving this objective will involve long-term integrated strategies that focus simultaneously, in affected areas, on improved productivity of land, and the rehabilitation, conservation and sustainable management of land and water resources, leading to improved living conditions, in particular at the community level.“ ³¹

The socio-economic aspects of desertification have found a strong base within the provisional outlines of UNCCD, together with its ecological implications. For a number of reasons, UNCCD is thus often regarded more as a developmental treaty than an environmental one. But such a kind of distinction would not exactly reflect the nature of this Convention, since its origins are truly cross-sectoral and within the framework of sustainable development policies. Yet, while the Climate Change Convention and the Biodiversity Convention mostly aim to protect the natural environment from economic impacts, UNCCD aims at addressing the socio-economic conditions of rural developing country people. However, desertification has to be seen as both cause as well as result of socio-economic disorder. We have learnt further above that the Convention is a case of postmodern conceptualization of IR. UNCCD can easily be identified as a process of regime building, and its legally binding nature matches with the legal criteria

³⁰ Definitions taken from the Convention, Art.1 (UN Doc. A/AC.241/27). See further details in Lean, Geoffrey: Down to earth. A simplified guide to the Convention to Combat Desertification. Bonn, 1998.

³¹ Op. cit.

provided.³² Also, the role of knowledge, can be traced and made evident easily since the political aspirations for this new agreement as well as the drafting process thoroughly took into consideration the history of the PACD, and subsequently subscribed to an approach of 'lessons learnt'. Following the example of the IPCC, UNCCD has furthermore as its first subsidiary body, the Committee on Science and Technology (CST), whose experts provided a substantive and knowledge-reflecting base for the content-driven interventions under this Convention.

One of the chief drafters of UNCCD, Ambassador Robert Ryan, on the scientific context of UNCCD, but also revealing other crucial aspects, stated:

„At its first substantive session in 1993, the Intergovernmental Negotiating Committee for Desertification (INCD) spent a week exchanging scientific information. This was crucial to developing a broad consensus on the integrated, bottom-up approach that the CCD would take to sustainable development in drylands. The International Panel of Experts on Desertification (IPED), which had broad geographic and disciplinary representation, directly assisted the Secretariat and potential parties in fleshing out this overall approach throughout the CCD and its regional implementation annexes. The IPED's imprint is particularly evident in the definitions in article 1 and in the articles on information collection, analysis and exchange; on research and development; on transfer, acquisition, adaptation and development of technology; and on capacity building. The CCD's integrated, bottom-up approach has two basic facets: It clearly recognizes that economic and social factors cause desertification as much as physical factors. One condition for combating land degradation ... is, therefore, reversing the vicious circle of poverty in which most dryland communities of developing nations, particularly those in Africa, find themselves. It centers attention on participatory, community action as the basis for combating desertification and mitigating the effects of drought. Merely consulting local people is not enough. Real participation means empowering them to decide for themselves how to use their resources and how to protect the fragile environment in which they live. The same overall approach pervades the scientific provisions of the CCD. In essence, the Convention challenges the scientific community — social scientists as much as physical scientists — to put itself at the service of dryland communities. "Demand-driven" science is a daunting challenge requiring a change in mindset. A new philosophy of technology cooperation needs to replace the traditional top-down paradigm of technology transfer, which is increasingly seen as the main reason why past efforts at desertification control did not get the job done. The scientific provisions of the CCD are broad and detailed. The following, in no particular order, are just some of the key tasks in crafting a truly demand-driven scientific agenda...:

- *To develop benchmarks and indicators of progress in combating desertification that encompass both traditional physical variables and measures of success at the*

community level;

- *To encourage information-exchange networks that include not only governments and intergovernmental organizations but also non-governmental organizations (NGOs), local communities and scientific institutions;*
- *To inventory and disseminate local technology, knowledge and know-how and integrate them with modern technology;*
- *To ensure that collection and analysis of scientific information address the needs of local communities with a view to resolving specific problems and that local communities are involved in those activities;*
- *To support research activities that respond to well defined objectives, meet the needs of local populations and lead to improved living standards for people in affected areas;*
- *To develop and strengthen local, national, subregional and regional research capacities in developing countries affected by desertification;*
- *To extend technology cooperation among affected developing countries, particularly in sectors that foster alternative livelihoods for dryland communities; and*
- *To reorient extension services in affected developing countries toward participatory approaches for the conservation and sustainable use of natural resources at the community level.*

*Structuring and carrying out a sound scientific agenda will make a major contribution to the success of ... action programs that are the centerpieces of CCD implementation. It is important to recognize, however, as the CCD makes clear, that these action programs should be closely linked to other efforts aimed at sustainable development, particularly to implementation of related environmental conventions. Article 8 of the CCD specifically encourages joint programs with related conventions, notably the Climate Change and Biodiversity Conventions, in the fields of research, training and systematic observation, as well as information collection and exchange... One of the main prerequisites for successful coordination with sister conventions is a deeper understanding of the scientific factors that link desertification and drought to climate change and loss of biodiversity... Given the importance of the linkages, there is room for more extensive and more systematic research about them, particularly regarding the positive effects of desertification control on the mitigation of climate change and on the conservation of biodiversity.*³³

The semantics of sustainability, and further semantic epiphenomena such as the sustainability triangle and other concepts, have, according to the above-mentioned notions of UNCCD as a means of sustainable development policy, strongly influenced its outlines, and are replicated in its holistic, integrated approach as a cross-sectoral, multi-level framework of comprehension. Yet, UNCCD's very threshold lies in the so-called *bottom-up approach*, which

³³ Ambassador Robert J. Ryan is an international consultant based in Rome. After his retirement from the Foreign Service, he served from 1993 to 1997 as Special Adviser in the Interim Secretariat of the Convention to Combat Desertification and concurrently as Chairman of the International Panel of Experts on Desertification. His full statement can be found at <www.earthinstitute.columbia.edu>.

combines all of these phenomena in itself. The Convention foresees that affected countries, i.e. developing countries, some developed countries, Central and Eastern Europe, some Central Asian countries, give a commitment to prioritize combating desertification as a national policy and as a part of their national strategies for sustainable development. This process is called *mainstreaming*, and corresponds with the postmodern principle of cross-sectoral strategy orientation. Developed countries through their signature bind themselves to support these measures through substantial financial resources within existing cooperation frameworks of a bilateral as well as multilateral nature. At the outset, UNCCD achieved no multilateral financial mechanism, but the *Global Mechanism (GM)*, which is understood as a broker or clearing house body, and also acts as consultancy and training providing entity. This tool has soon proved to be too weak to accumulate and channel funding in a meaningful way. Only the insertion of CCD matters into the GEF matrix brought the financial issue forward.

UNCCD's main target area are the African drylands with some 40 priority countries. The Convention's main policy instrument are *National Action Programmes (NAPs)*, delivering frameworks for all activities undertaken in affected countries for its implementation, such as measures for improving the economic circumstances, of poverty alleviation, protection of natural resources, capacity building, empowerment of locals and women, or on awareness raising. NAPs work according to a cross- or inter-sectoral scheme. These NAPs are, as the prime product of mainstreaming efforts, supposed to integrate all previously sectoral target efforts.

A key mechanism of the Convention's implementation process are the *partnership agreements*. Bilateral and multilateral donors present in affected developing countries are, according to this approach, supposed to bundle themselves and their engagements, and thus become integral part in the implementation of NAPs through their consultative, technical and financial assistance, always corresponding to a country-driven process. However, achieving sustainable development without seriously involving the civil society at all stages and levels, particularly at national and local levels, is impossible and probably doomed to fail. The drafters of UNCCD took this insight into account and tried to declinate it through the Convention's text to a maximum. They had recognized that development is made sustainable through the participation of those concerned. It is exactly at this level, where globalization and its epiphenomena need to be met. Creating a global village cannot be only left with corporations and shareholders nor with politicians. It is the primordial role of the global civil society to counterbalance and complement, through their voice and effort, the trends and tendencies currently underway. This normative understanding of global governance has underpinned the drafting process of the Convention.

However, one should not forget that there is also a process of globalization of NGOs going on, with a tendency to strengthen those of the North, and weakening their 'sister' organizations in developing countries. In other words: Is it really fair to equate the emergence of an international civil society with the advancement of democracy? The emergence of an international civil society does not really modify the global balance of power - it merely expresses it differently. The influential "civil societies" and thus NGOs are almost necessarily

those of the most powerful countries. Thus, it is the civil societies and the NGOs from the rich, media-driven countries that usually exercise influence in the world. They are the ones with the means to communicate - and thus the power to impose their views. It is developed countries influence, not that of Niger, Bolivia, or Bangladesh. It is not Nigerian NGOs that are going to intervene in Northern Ireland or demonstrate in Seattle, it is European and American NGOs most likely.

When speaking about partnership, we must as well refer to partnership within the network of NGOs, and examine, if it is the civil society of *developing* countries whose voice is heard, and whose efforts are meaningful. Exactly this normative goal was implied by the drafters of UNCCD. Probably the most interesting point according to the notions of post-Westphalian governance are UNCCD's guiding principles and normative provisions on participation, making it a piece of inscribed global governance, since the Convention is legally binding and thus international law: UNCCD foresees throughout participation of concerned populations at all levels in the planning, implementation and evaluation of the Convention. The latter is also understood as mobilizing subsidiarity, utilizing existing knowledge and technology including traditional knowledge where appropriate, local experience and best practices. This concept is called the *bottom-up approach*, and follows the idea of *participatory eco-development* as a process of decentral decision making. It finds its complement in the above-described partnership principle: developing as well developed countries, affected and non-affected countries are supposed to jointly implement UNCCD, including all intra-state levels of administration and decision making, and also including various actors of civil society: NGOs, community-based organizations (CBOs), associations, rural people, especially women, business, and the scientific community.

The bottom-up approach is a concept of policy implementation, which reverses the traditional logic of intervention, the declination of hierarchically generated policy formulation and decision making results to the 'lower levels' of intra-state societal order, i.e. the so-called top-down approach. This conceptual change, brought up as a discussion base by the United Nations themselves, and transformed into international law by state delegates during the INCD sessions, may have been motivated and triggered by the impression of growing erosion tendencies of nation-state capabilities, particularly in the fields of environment and development politics in developing countries. I doubt that the bottom-up approach is truly of an abstract normative nature, i.e. yielding the empowerment of people just for the sake of democracy. I think that this methodology was expected to render the implementation process of the Convention way more effective than any other previous attempt. As such, we can speak of a case of learning institutions: the failure of the PACD certainly influenced the drafting process of UNCCD. Enhanced effectivity of the new instrument was thus supposed to be provided by meaningful participation of non-state actors, of local and regional structures, by a more holistic perception of international relations as a complex of global governance, and enhanced synergies between existing conventions, regimes and national policies.

UNCCD features the strongest focus on global governance concepts among the Rio treaties, since bottom-up is, conceptually, nowhere else so strongly implied. The bottom-up approach

is linked with the epiphenomons or sub-concepts of participatory eco-development and partnership agreements within given multi-actor-networks, as described above. One of the key questions that the drafting fathers of the Convention undertook to reflect upon was: How can UN agencies link up with civil society? The background for this both conceptual and strategic scenario was evident, i.e. the ongoing crisis of multilateral organizations backed from the functionalist matrix of post-World War II politics. Looking at the major significance of development issues for the desired success of UNCCD, it had seemed before Rio that the new generation of OECD representatives was not any more interested in North-South solidarity, as a consequence of which lack of political will, interest and funding had to be admitted.

4.4. Lessons drawn for the forest approach

Observations from the UNCCD negotiation, drafting and implementation process that may be valuable for the UNFF deliberations, contain, inter alia, the following points:

- The overarching potential of this convention lies to some degree within its 'give and take' character, i.e. as a true bargain result between developed and developing countries. Therefore, for future forest concerns, balance should best be yielded between the issues of conservation and economic benefits, and harmonized with poverty reduction matters. The desiderata of developing countries have to be heard.
- The CCD is a case of lessons learnt in itself. Since the first attempt, the non-legally-binding PACD had clearly failed despite its complete strategic compendium and overarching objectives, the international community chose the option of a legally-binding convention with regional annexes to yield enhanced compliance and monitoring results. This constitutes an interesting parallel to the forest case and should thus be taken into account.
- The bottom-up-approach of the CCD has proved to provide an excellent methodology for ensuring enhanced ownership and participation of stakeholders concerned.
- The partnership arrangement pattern, although still not sufficiently implemented, provides a blueprint on how donor coordination in recipient countries can be organized effectively.
- On financing mechanisms, the CCD experience has shown that neither a global central fund nor the absence of any cash-flow-channel led the implementation process into success. Only the opening of a new GEF focal area on land degradation with some 500'000'000 USD funding base has helped implementing some of the most advanced NAPs.
- Science and knowledge, information and technology sharing, south-south cooperation, benchmarks and indicators for monitoring and assessment are crucial components of a successful regime. Therefore, the CCD approach with its half-baked Committee on Science and Technology (CST) is not recommended. The IPCC of UNFCCC provides a much better blueprint.

- The cross-sectoral nature of UNCCD has taken into account the close links of desertification and land degradation with loss of biodiversity, deforestation, water scarcity, climate change and poverty. Yet, synergetic implementation and administration of these areas is still not achieved, due to sectorally organized vertical structures in donor and recipient countries as well as within the UN system. Therefore, a future IAF should better comprise and centralize means and efforts towards sustainable forest management, and connect these with the ongoing major efforts to reform the UN system as a whole and in particular in the environmental field (strengthening of UNEP, UNEO initiative), and create closer thematic and organizational linkages to agencies implementing the MDGs.

5. Critical choices for effective structures

5.1. Revisiting the architecture of global sustainable forest governance

The current negotiations on the future of the IAF take place within the framework of UNFF. However, the global forest regime comprises more institutional bodies and for a, i.e. the CBD (work programme on forestal biodiversity), UNFCCC (carbon sequestration programme area), UNCCD (programme areas of deforestation and land degradation), the International Tropical Timber Organization (ITTO), CITES (area of trade of certain tropical woods), Convention 169 of the ILO, and the FAO (World Forestry Congress, COFO). Moreover, global forestry concerns have been dealt with by UNEP and the CSD. At the level of the UN Secretariat, the Department of Economic and Social Affairs (DESA) is in charge.

Although the forest issue is dealt with by all of these treaties at global level, no significant progress or even breakthrough has been achieved within or outside the UNFF so far. Three reasons: (1) Forests are treated in existing MEAs, but not as primordial target – rather as subsidient issue to help meeting the major goals of the said instruments; (2) sustainable forest management is nowhere treated in a legally-binding manner; and (3) the highly fragmented institutional architecture of global forestry concerns further weakens its effectivity. Some examples: In April 2002, the 6th COP of the CBD, through its decision VI/22, treated the issue of access to forestal genetical resources – an important theme. Parties are to ensure: conservation, sustainable management and equal benefit sharing; creation of a sustainable enabling environment (institutional and socio-economical); ongoing information sharing, evaluation and monitoring measures. Yet, the non-legally-binding nature of this resolution makes compliance definitely very weak. The ITTO foresees that exports from tropical woods are only allowed upon ensurance of sustainable forest management (resolution 2000) as well as the creation of a central fund. The latter has been accepted and filled only by Japan, while the EU is not in favor. Thus, compliance to the ITTO goals is as weak as towards the CBD forestal programme.

So far, the negotiation process (some 15 years) towards a new instrument for global forest management has been ineffective. So far, no legally binding scheme featuring implementation power, survey and sanctions has been reached. Negotiations tend to take place without a central coordination, strong multiplication of efforts is observed, implementation of existing resolutions is weak due to discord and their voluntary nature, the financial issue has not been resolved so far. For UNFF 5, governments will, to ensure compliance and effectivity, have to include entrepreneurs, distributors, consumers, NGOs and other stakeholders into the substance building and drafting of a future forest instrument. Legal instruments such as conventions or else are nowadays insufficient without a complementing policy networks or partnerships component.

The options discussed for a follow-up regime for UNFF and IAF are:

- a new legal instrument (treaty, agreement) without a binding nature
- a new legally binding global instrument (convention) for all types of forests
- a legally binding framework convention with regional and/or thematic annexes
- a forest protocol under the CBD (legally binding or non legally binding)
- maintaining the status quo: voluntary implementation of pertinent resolutions and decisions passed by IPF/IFF/UNFF, CBD, UNFCCC, UNCCD, CITES, ILO Convention 169, ITTO (dec. 2000), FAO-WFC, FAO-COFO, the CSD, UNEP, the CPF and others
- reinforcement of existing regional, bilateral and inter-governmental agreements as well as partnerships (Forest Stewardship Council, Congo Basin Partnership, PPG7 etc.)

The global NGO community has repeatedly reiterated their position towards these questions in the forefront of UNFF 5.³⁴ They focus solely on the CBD to be reinforced, with a new financial and legal instrument (i.e. a protocol) on global forest management. According to the NGO position, the CBD already comprises the essential substance of SFM in a rather holistic perspective. This endeavor, under present political circumstances, seems to the NGOs more realistic than open ended negotiations on a new convention. Indeed, the CBD provides a certain framework for forests, but mostly focuses on the aspects of conservation and protection of genetical diversity, while the issue areas of sustainable use and management, trade, and equitable benefit sharing are mentioned but not sufficiently treated and featured. The NGO community also focuses on the inclusion of rights and obligations of indigenous people and producers. Their overall argument is that the CBD is a multilateral treaty already operational and being implemented. Access to GEF is secured. More than 180 Parties have ratified it to date. The CBD is acknowledged by developing countries, see especially the Cartagena protocol on biosafety, and trusted. Therefore, NGOs – as well as a number of governments – want the existing forest working programme to be transformed into a new protocol. Furthermore, the NGO community perceives most of the recent and current

³⁴ These are summarized in the study: Anne-Marie Wilson/ Stéphanie Guéneau: Gouvernance mondiale des forêts. Une évaluation à partir de l'analyse de la position des ONG. Paris (IDDRI), 2004. Selected single papers recommended are: Greenpeace: Legally-Binding Instrument on Forests: Why bother? Discussion Paper, February 2005, and WWF: The IAF at the Crossroads: Tough Choices Ahead. WWF Forests For Life Programme, September 2004. See also: UN Doc. E/CN.18/2005/3/Add.4 prepared by the NGO major group for UNFF 5.

multilateral negotiation processes as hampered by reoccurring North South tensions, and the UNFF as too sectoral in its approach.

Indeed, the launching of a new negotiation process towards a legally-binding treaty is, with a view to the current crisis of multilateralism, an enormous challenge. Opposition still prevails between the environmentalists (most of Europe, Canada etc.) vs. some of the stronger transitional countries (Brazil etc.) and the G77. Difficult or even stalled implementation processes of existing MEAs, the WTO Cancun round, the WSSD and other occurrences have underlined this impression. On the other side: the entry-into-force of the Kyoto protocol, the so-called Cartagena package on reforming UNEP, the inter-governmental initiative for the creation of a world environment organization (UNEO), and the recent steps towards major UN reform (High Level Panel on Threats, Challenges and Change, Kofi Annan's reform initiative) – these achievements show progress despite all difficulties and constitute a momentum! Moreover, support to a collectively driven approach to a sustainably enhanced global forest regime can be expected from the World Bank Revised Forest Strategy, and even from the WTO with its very important role in dispute settlement. Forestal reference under the three Rio Conventions can also help strengthening the new regime, provided it will be established with a central gravity centre. Therefore, the NGO approach is welcome and serves as a useful tool and inspiration box, the conclusion against a strong forest convention however is too short-sighted. Still, the following additional NGO desiderata should be taken into account:

- better coordination of existing instruments
- enhanced participation of major groups
- survey, monitoring and evaluation by external forces than contracting Parties

holistic view on SF

5.2. Proposals for the way ahead

Taking into consideration the crucial significance of forests of all types for sustainable development a new effort will have to be made to render the IPF/IFF/UNFF process and the IAF much more effective than it has been so far. Any new attempt to establish solid financial, procedural or other rules ought to be legally binding so as to ensure maximum compliance. In general, commitments are better achieved by legally binding instruments since Parties have a higher incentive to cooperate than in non-legally binding regimes. Analysis of a range of existing legal instruments for sustainable development in terms of their historical genesis as well as their legal and institutional nature and performance (e.g. CBD, UNCCD, Cartagena Protocol on Biosafety, UNFCCC, Kyoto Protocol, Ramsar Convention, CITES, ITTO, IPF/IFF/UNFF process, and others) ultimately leads to this insight.

Of course, the legally binding nature of a treaty does not solve all possible problems such as lack of commitment, bleak implementation, lack of funding etc. An enabling and supportive, catalytical environment has to be built up and secured to sustain the contractual basis of a newly built multilateral regime. Political will of contracting Parties, true and equal involvement of stakeholders and actors concerned based on shared responsibility, a strengthened, effective institutional architecture with a given gravity centre, rules and procedures for monitoring and assessment, and a clear-cut financial mechanism have to be identified and combined with the legal basis of a regime – only then can its success be ensured. BUT: without legally binding commitments, the regime has very bleak perspectives to work out in the desired direction. This is clearly the empirical lesson learnt, for instance, from the PACD/UNCCD experience. And the CBD and the UNFCCC without their respective ‘hearts’, the Cartagena and Kyoto Protocols, would have remained shallow declarations of abstract goals. A new legal instrument should therefore be elaborated for global sustainable forest management. When it comes to clarifying if such an instrument should be of a legally binding or rather non-binding nature, it is clearly recommended that it should definitely be of a legally binding nature – and open for accession for all UN member states.

This being said, another important structural question arises, namely if such a new legally binding instrument should be shaped and established in the form of a ‘classic’ Convention type of its own – be it a single convention or a framework one with possible regional and/or thematic annexes – or rather as a (a) protocol or (b) annex to an already existing legal instrument (MEA), e.g. such as the Convention on Biological Diversity (CBD). Analysis of a number of types of existing legally binding instruments (treaty, convention, framework convention, protocol, regime, agreement) tends to lead to a clear answer to this crucial question: an issue area such as global sustainable forest management, featuring so manifold inter-linked aspects like income generation, poverty alleviation, nature conservation, trade, cross-sectoral significance for biodiversity, land degradation, climate change or water management, should best be tackled by a solid and detailedly specified multilateral agreement (Convention) of its own – leaving the framework possibility open –, for the purpose of fully meeting the substantive, political and procedural requirements of this particular policy field. For instance, a protocol under the CBD with its strong bias on nature conservation would never be able to meet the integrated, holistic and cross-sectoral nature of forest management in all its aspects.³⁵ However, under the present political circumstances, and taking into account the proceedings and outcomes of the international meetings held in the forefront of UNFF 5, one has to be realistic and envisage the Convention solution as first choice, and definitely go and negotiate for it, but keep the CBD protocol option as second best solution in mind. Only if no coalition towards a new forest convention can be built, the CBD option appears feasible as a temporary solution. Reference is made here to the ICC case, where entry-into-force was finally reached through the Rome statute, although the US, and a number of other important states were firmly against it. The German Government is therefore advised to invest into strong bilateral negotiations so as to built up a coalition of forest

³⁵ For ease of reference, consult Pülzl, Helga/ Rametsteiner, Ewald/ Tarasofsky, Richard: Policy advice on options for a legally binding instrument for all forests. Study prepared for the Duch Ministry of Agriculture, Nature and Food Quality. Vienna/ London, 2004.

convention willing states. If the number of 70 can be reached, this would already ensure a critical mass to embark into more concrete negotiations. Parallel movements can, for instance, be observed for the UNEP strengthening process and also the named UNEO context.

Having opted for a Convention type, the next question is whether that should be in a classic legal text form consisting of a number of general desiderata and resolutions and thus yielding at regulating and resolving all known and pertaining issues and aspects of forest management on the global level – possibly without particular reference to regional or local parameters and variables – or rather in the form of a Framework Convention as is the case with UNFCCC or even UNCCD. My clear preference is on the Framework Convention type since this form would allow to collect pertinent targets and aspects related to the global nature of sustainable forest management, and spell out global and overall goals, while regional and/ or local specifics, questions of arbitration and dispute settlement, sanctions etc. could be treated within annexes; procedural rules and particular ‘laws’ in protocols – decided upon and added to the Convention text at later steps in the inauguration and implementation process.

A new legally-binding instrument in the form of a Global Framework Convention on Forests would further have to clarify, which of the possible definitions of ‘forests’ it would choose and subsequently be yielding to tackle, e.g. tropical forests, timber, any forestal landscapes etc. Our advice in this regard is that the focus of the new instrument should be again of a holistic and integrated nature and thus treat and resolve issues related to all types of forests. It should therefore be named ‘Global Framework Convention for Protection and Sustainable Management of all types of Forests’ or ‘United Nations Framework Convention for Protection and Sustainable Management of all types of Forests’ or even ‘United Nations Framework Convention for Protection and Sustainable Management of all types of Forests, particularly in Developing Countries’.

This latter formula touches another crucial point to be clarified before embarking in negotiations towards establishment of a new instrument: the protection or conservation aspect has to be balanced with the one of economic use and equitable benefit sharing, management and trade. In other words: an equilibrium must be created between the conservation of important forest ecosystems and their sustainable use and management for economic purpose, being closely linked with the aspects of income generation and poverty reduction. Therefore, the particular needs and requirements of developing countries and their, especially indigenous, populations have to be taken on board and resolved within the framework of the new Convention – in the spirit of UNCED and the Brundtland Report. Issues such as finance and technology transfer are usually more in the interest of developing countries, nature conservation aspects are more pursued by developed countries. A new Convention should therefore treat both issues that are of interest to the North and issues that are of interest to the South. In this context, reference has to be given to the significance of

forest management for reaching the MDGs, and also the World Bank PRSPs as well as the EU/ACP national indicative programmes should serve as reference points.³⁶

A number of agreements already exist, providing guidance on mitigating the global forest degradation process: The Expanded Work Programme on Forest Biological Diversity of the Convention on Biological Diversity, the IPF Proposals for Action, which governments had pledged to implement, the Rio Declaration on Environment and Development, the Statement of Forest Principles, Chapter 11 of Agenda 21 etc. The contracting Parties of a new legally binding global instrument for the protection and sustainable management of all types of forests should thus yield at creating far-reaching synergies between the existing multilateral instruments in this substantive area so as to ensure proper use of efforts already underway, investments and regimes, results, lessons learnt and best practices. They should aim to avoid profile overlaps and duplication of efforts, and significantly enhance the coordination of existing conventions, esp. UNCBD, UNCCD, UNFCCC and Ramsar.³⁷ Therefore, an overall political mechanism of coordination should be created, within which any new forest instrument would be embedded – seconded by a programmatic framework that would touch the conventions in their cross-sectoral aspect and consist of evidently inter-linked issues such as carbon sequestration or trade. As for the overarching institutional framework, reference is once more made to the two ongoing processes to reform the architecture of international environmental governance: the Cartagena package to strengthen UNEP, and the inter-governmental initiative for a UNEO.³⁸

It has to be clarified, through which institutions and bodies the new legal instrument will have to be 'mis en scène' and implemented. In addition to a governing body (e.g. Conference of the Parties, COP), a facilitating entity, usually a Convention Secretariat, and other subsidiary institutions such as technical or expert groups, scientific bodies to monitor and assess, a committee to address compliance issues, advisory groups and a financial mechanism. The institutional set-up will also depend on the location of the instrument within the UN system (e.g. as a functional commission under ECOSOC, as part of a specialized agency such as FAO, or as a Convention under the UNGA. My advice: the new Forest Convention would be under the GA and thus belong to the league of administratively independent bodies. However such a new instrument would look like, it would require a solid and comprehensive financing concept. A new global instrument for the protection and sustainable management of forest resources will require financial cooperation in a spirit of partnership and shared costs, and particularly provide assistance and support to developing countries meeting their needs.

³⁶ The author wishes to refer at this point to the policy paper: Scholz, Imme: A Forest Convention – Yes or No? Bonn (DIE), 2004, and to the volume: Frank Hofmann: Globale Waldpolitik. Remagen (Dr. Kessel) 2004.

³⁷ On the forest-related contents of other MEAs, see: Tarasofsky, Richard G./ Oberthür, Sebastian: Forest-Related Multilateral Agreements: A Survey of Provisions and Interactions. Berlin (Ecologic), 2001. On the significance of forests for climate change policies, see: Simonis, Udo E.: Energieoption und Waldoption – der technische und der natürliche Weg zum Internationalen Klimaschutz. Berlin (WZB), 2004.

³⁸ See Rechkemmer, Andreas: Globale Umweltpolitik 2005. Berlin (SWP Studie S 45), 2004.

6. Critical choices for a financial mechanism

The position of the EU should draw upon the note by the UNFF Secretariat, the EU positions at IFF 3 and at IFF 4, the recommendations of the international expert consultations of Pretoria (1996), Croydon (1999) and Oslo (2001), the works of the World Bank on investments and the OECD/DAC fiscal reform process. In addition, the foundation of the EU position will need to include the results of the International Conference on Financing for Development held at Monterrey, Mexico in March 2002. Finally, the EU-Position should be based on the work of the UNFF Ad Hoc Expert Group on Financing and Transfer of Environmentally Sound Technologies (FINTEST), which met in December 2003, and decision 4/2 of UNFF 4. A new financing concept will require a solid and reliable financial basis in a spirit of partnership and shared costs, particularly to provide assistance and support to developing countries meeting their needs. In principle, when it comes to designing a comprehensive financial mechanism for a new global instrument for protection and sustainable management of forests, a mixed portfolio of various components is recommended, bearing in mind that some components will have to be given a heavier weight, while others rather play an accompanying role.

6.1. Elements for a financing mechanism for sustainable forest management

At global level

Supporting countries to maintain the global benefits of forests by improved protection and sustainable use of forests is of crucial interest for the global community. The major mechanism for support to the implementation of sustainable forest management and improved forest protection could be the Global Environment Facility (GEF). In its current form, the GEF provides three Operational Programmes, which offer possibilities for financing forest relevant programmes:

- OP 3 "Forest Ecosystems", focused on forest biological diversity, providing a relation to the Convention for Biological Diversity (CBD) (since 1991: 127 projects have been financed with 645 Mio. US \$)
- OP 12 "Integrated Ecosystem Management", focused on comprehensive and cross-sectoral approaches, providing a relation to watershed management and climate change (since 1991: 35 projects [125 Mio. US \$])
- OP 15 „Sustainable Land Management“, focused on land degradation and deforestation, providing a relation to the Convention to Combat Desertification (UNCCD) (since 2003: 7 projects [39 Mio. US \$])

These programmes offer funding opportunities for the *conservation of forest ecosystems* and forest biological diversity. Minimalists argue that future forest programmes and initiatives could be financed through these three existing OPs. However, none of these lines truly offers

a satisfactory solution addressing the multiple roles and functions of forests in the context of *sustainable development, national economies or rural livelihoods (poverty reduction)*. Therefore, the named provisional GEF channels are not sufficient and have proven to be unable to contribute meaningfully to serious SFM efforts as they treat forest concerns only as part and parcel of the umbrella items expressed in the said focal areas.

To increase chances for better achieving the overall objectives either of a new instrument on forests or a strengthened IAF a more solid and comprehensive financing concept is required in the future. Therefore, the EU should consider to support the launching of a new GEF Operational Programme, if not a new GEF Focal Area, for Sustainable Forest Management. A new GEF Operational Programme or Focal Area could, for instance, be developed and agreed upon before the next replenishment in 2007.

Given the considerably growing financial requirements in the field, and yielding a fresh start in global forest management more effective than in the past, EU-MS and other donors should assume that increased financial support will be demanded on the recipient side. Therefore, a re-oriented and reformed GEF architecture with a new OP (or FA) for SFM would most probably result in streamlined and bundled, and thus more synergetic and efficient financial allocations to developing countries. In other words, priority should be given to 'getting more out' of existing financial allocations through more intelligible multilateral structures. Experience with the UNCCD implementation process suggests that a global instrument can be effective only if it is accompanied by a predictably working financial mechanism. The initial CCD architecture foresaw a half-baked 'broking agent', the so-called Global Mechanism (GM), but no financing mechanism. Support to the CCD's implementation process remained shallow until the opening of the GEF focal area for land degradation.

At national level

Whereas the GEF is to be used in particular for financing incremental costs for global benefits, there is an urgent need for visible national commitment towards creating financing mechanisms at the national level, which could be further strengthened, i.a. by integrating long-term financial planning into national financing strategies. Examples for national financing mechanisms could be national trust funds within the framework of national budgets to secure the re-investment into the forest sector; or the development of effective fiscal policies, etc. To support these developments further assistance will be needed to address topics such as capacity building for good forest governance. In our view, the NFP-Facility, hosted by the FAO, has a special role to play in this regard. Funding through the Facility shall be complemented by bilateral and multilateral programmes such as EU budget lines, development banks and international multi-donor programmes such as PROFOR, hosted by the World Bank.

However, multilateral sources, namely through the GEF, will be crucial but not sufficient in itself. They will have to be seconded by partnership agreements between donor and recipient

countries on technical and financial assistance. Bilateral ODA will have to be allocated to developing countries in the spirit of partnership on a mid-term basis, to ensure a minimum of sustainability of projects and programmes launched under a new forest instrument. In particular, tasks such as capacity building, training, technology transfer and information access should not be left to multilateral agencies alone, but also be provided through bilateral agreements. Bilateral donors should be aware that increased assistance will be requested by developing countries. Instruments such as Debt-for-Nature-Swaps, Endowment Funds or Conservation Concessions could be considered addressing those requests. However, recipients will have to provide through their NFPs long-term financial planning highlighting their own possible public and private contributions to those partnership agreements to render the forest process self-supporting in the long run, envisaging to become more and more independent from ODA allocation.³⁹

At regional level

As forests do not always stop at national borders, more and more interest is shown by donors and developing countries in creating regional forest programmes - generally related to regional organisations such as the Amazon Treaty Organisation (OTCA) in Latin America, the Conference of Ministers in Charge of Forests (COMIFAC) in Central Africa or the Association of South-East Asian Nations (ASEAN) in Asia. ASEAN just agreed to set up an Environment Fund. The Congo Basin Forest Partnership (CBFP), launched at WSSD, is focused on sustainable management of the forests in the Congo Basin and is providing funds for activities of regional interest. Since 2003, OTCA is newly established in the Amazon Region and will be an important partner for regional funding and implementation in Latin America. There are various regional programmes and processes arising such as those focused on Forest Law Enforcement, Governance and Trade. In the future, there may be a need to develop specific regional financing strategies so as to best benefit from mutual regional interest and ownership. Again, the CCD model may inspire the negotiations towards a new forest instrument, since its implementation modus is formulated and organised in sub-regional and regional action programmes – complementing the national strategies.

Non-state initiatives

Despite all contradictions, empirical studies admit advanced institutionalization of global environmental governance, even as of today. Some 900 intergovernmental agreements have been decided upon so far. And none would seriously neglect the growing role of private actors, scientific networks, and NGOs – seconded by new economic instruments such as certificates trading. The World Summit on Sustainable Development (WSSD, Johannesburg, 2002) has launched a series of partnerships and coalitions, so-called Type II outcomes. They are currently being evaluated, but at a first glimpse most of them prove to be somewhat helpful. Therefore, any new financial mechanism for sustainable forest management should,

³⁹ Orientation may be provided here through the CCD experience once more, whose financing process nowadays foresees a mix of GEF allocations and bilateral partnership agreements that group donors at the national recipient level around the agencies in charge of CCD implementation, orchestrating external support with national and private efforts. This concept has led to tangible results in some African and Central Asian countries so far.

inter alia, promote such partnerships and initiatives wherever they seem useful – at local, national, regional and global level. For the forest sector, the named Congo Basin Forest Partnership (CBFP) may serve as a blueprint or example worth to be studied.

6.2. Overall aspects

Financial resources are foremostly directed towards developing countries, supporting their national projects and programmes requiring adherence to the guiding principle of sustainable forest management. Developing countries, just like developed countries, have to provide analysis and assessments through their national reporting schemes. Developing countries disposing of vast forest areas that comprise protected areas, should be supported in a more meaningful manner than others, keeping in mind that compensation should be provided for loss of income or labour through these protecting measures. When it comes to designing a comprehensive financial mechanism for a new global legal instrument for protection and sustainable management of all types of forests, a mixed portfolio of the above-mentioned components is suggested to constitute this mechanism, bearing in mind that some components will have to be given a heavier weight, while others rather play an accompanying role:

GEF Plan A: New Focal Area on Forests Plan B: New Op. Programme	
Partnership agreements & ODA	National initiatives, financial self-support
Type II Initiatives	Private investment, Certificates and others

7. Recommendations and Conclusions

- A new legal instrument for forest management should be elaborated. When it comes to clarifying if such an instrument should be of a legally binding or rather non-binding, it is recommended that it should be of a legally binding nature.
- Global sustainable forest management, featuring manifold inter-linked aspects, has to be tackled by a solid and specified multilateral agreement (Convention) of its own, for the purpose of fully meeting the substantive, political and procedural requirements of this particular policy field.
- My clear preference is on the Framework Convention type since this form would allow to collect pertinent targets and aspects related to the global nature of sustainable forest management, and spell out global and overall goals, while regional and/ or local specifics, questions of arbitration and dispute settlement, sanctions etc. could be treated within annexes.
- Thorough negotiations and coalition building between UN member states should be undertaken regardless of the usual regional group formation. Only if a new convention is absolutely not achievable, the second best option, i.e. a legally-binding protocol for global sustainable forest management under the CBD should be yielded.
- My advice is that the focus of the new instrument should be of a holistic and integrated nature, and thus treat and resolve issues related to all types of forests.
- An equilibrium must be created between the conservation of forest ecosystems and their sustainable use. Therefore, the particular needs and requirements of developing countries have to be taken on board and resolved within the framework of the new Convention or Protocol.
- The contracting Parties should yield at creating synergies between the existing multilateral instruments in this area so as to ensure proper use of efforts already underway, investments and regimes, results, lessons learnt and best practices.
- An overarching institutional and political architecture has to be built around the existing MEAs. The renewed forest regime should be embedded therein. The UNEP reform process (Cartagena package) and the inter-governmental initiative for the creation of a UNEO constitute promising cornerstones for this endeavor. Furthermore, the ongoing efforts for UN reform at the 60th Session of the UNGA should be used as a political momentum.
- The new Forest Convention, if so, would best be under the UNGA and thus belong to the league of administratively independent bodies. However such a new instrument would look like, it would require a solid financing concept.

- At least a new GEF Operational Programme (No. 16 for Sustainable Forest Management) has to be launched – even much better and ideally, a new GEF window, or Focal Area should be opened.
- Since the G77 at numerous occasions expressed their demand for new and additional financial resources, EU-MS should be aware that progress can only be achieved under the condition of a respective concession from the donor countries. Financial requirements for the transition from “traditional single-use timber exploitation” to “multiple-use” sustainable forest management are much higher than the public and private funds that can be mobilized today. Therefore, EU-MS should be aware that increased need for support through ODA will arise during the next years.
- Multilateral ODA should be processed by GEF and concentrate on the multiple roles and functions of forests in the context of *sustainable development, national economies and rural livelihoods* (poverty reduction), as it is to be used in particular for financing incremental costs for global benefits. Once a legally-binding instrument on forests has been established it should be assumed that increased contributions through the GEF are made.
- Bilateral ODA should concentrate on the creation of supportive framework conditions for public and private investment in the forest sector. It will and must decrease once necessary governance reforms are underway and frame conditions become more propitious for private investment. Without these reforms, any increase in ODA will most certainly not result in progress towards Sustainable Forest Management (SFM).
- As regards the proposal of establishing a new solitary global financing instrument, for example a Global Forest Trust Fund, EU-MS should be clear not to agree to such an instrument. Beside the expected accompanying overhead and transaction costs there is empirical evidence to show that Multilateral Environmental Agreements seconded by single finance instruments, in particular trust funds, tend to be chronically under-funded, as long as they are not eligible to retrieve contributions under the GEF.
- Bilateral or multilateral assistance alone will not be sufficient addressing all forest relevant issues. The role of governments in creating a favorable environment for SFM and increased private sector investment has been reaffirmed in many fora, including the Monterrey conference. National Forest Programmes should be accompanied by financing strategies, lining out the short, medium and long term financial planning for reaching sustainable forest management, the latter understood as also economically sustainable i.e. self-financing.
- Multilateral sources will have to be seconded by partnership agreements between donor and recipient countries. ODA will have to be allocated to developing countries in the spirit of partnership on a mid-term basis. However, recipients will have to provide through their

National Forest Programmes (NFPs) long-term financial planning, highlighting their own public and private contributions.

Conclusions

As for the finance aspect of a strong global forest management regime, a mix of improved existing instruments and mechanisms is needed. An adapted or amplified Global Environment Facility with an Operational Programme, or even better a Focal Area, focusing on sustainable forest management would constitute a first step. A strong support to the NFP-Facility as an instrument for enhancing national capacity building and stakeholder participation, along with concerted donor support could be essential design features of such a mix. Increased support by multi-donor partnerships, as well as increased bilateral support to regional forest programmes and forest partnerships will be important to make financing instruments work.

Developing countries need to increase their own contribution to financing SFM, addressing all frame conditions and multiple roles and functions of forests. The UNCCD example may serve as an orientation as for its integrated and balanced focus in the above sense. The UNCCD is widely accepted, particularly by developing countries, since its framework tries to harmonize efforts of soil conservation with the crucial aspects of sustainable land use and income generation. It conceptionally combines multilateral, bilateral and domestic funding channels in a harmonious manner.

As for the substance part, arguments have been given in this study as to what approach should best be followed by the German negotiators in the UNFF 5 deliberations. The existing IAF has proven incapable of rendering the global forest regime effective. A new forest regime should therefore be build up on the basis of shared normative values and goals, the over-arching objectives identified by the international community at various occasions, e.g. UNCED, the WSSD and through the Proposals for Action established by the IPF process.

The new global forest regime needs a strong gravity centre. The UNFF as a functional commission under the GA and as subsidiary body of ECOSOC is not sufficient and cannot become stronger and more effective. A legally binding instrument for all types of forests is needed, best as a Framework Convention. Second best would be a Protocol under the Convention on Biological Diversity.

Such a new legally binding instrument for global sustainable forest management has to balance out desiderata identified by both developed and developing countries, including major non-state actors involved. UN member states should be demarched so as to build up a strong coalition of LBI willing countries and proceed from there on.

The legally-binding instrument should become the legal and procedural gravity centre of the new forest regime. Its institutional equivalent should consist of a well-coordinated network of institutions concerned, to replace the existing International Agreement on Forests. A legally-binding instrument would require a permanent secretariat with subsidiary bodies (science, rules/procedures/arbitration, monitoring/assessment). The FAO could host it and provide major institutional support. UNEP's role should be strengthened within the new forest regime, especially through the Global Ministerial Environment Forum. The CPF should furthermore be transformed into a statuated body of supporting agencies and actors. If the United Nations Environment Organization (UNEO) initiative will find a majority at the 61st session of the GA, it could become the overarching coordinating body.

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